

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**MASSACHUSETTS MUTUAL LIFE  
INSURANCE COMPANY**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 5:07cv210-DCB-JMR**

**ERNEST LANE, III, as Co-Executor of the Estate of  
James Oldrum Smith, Jr., deceased, TRUSTMARK  
NATIONAL BANK, as Co-Executor of the Estate of  
James Oldrum Smith, Jr., deceased, PATRICIA  
PETERSON SMITH, LYN LUCKETT SMITH, individually  
and as mother and natural guardian of Doe I, Doe II, and  
Doe III, minors, DOE I, DOE II, DOE III, LELA SMITH  
FLOWERS, PATRICK RAYMOND SMITH, JAMES  
OLDRUM SMITH, III, SMITH TOWING COMPANY, INC.,  
and TRUSTMARK NATIONAL BANK, as successor-in-interest  
to First National Bank of Vicksburg, Mississippi**

**DEFENDANTS**

**AGREED ORDER CONCERNING TRUSTMARK  
NATIONAL BANK'S MOTION TO DISMISS [DOCKET NO. 17]**

This cause came on for hearing on Defendant Trustmark National Bank's ("Trustmark") motion to dismiss [Docket No. 17]. Plaintiff Massachusetts Mutual Life Insurance Company ("MassMutual") and Trustmark have agreed, and this Court hereby finds and orders, as follows:

1. Trustmark has acknowledged, and this Court finds, that Trustmark, as a successor-in-interest to First National Bank of Vicksburg, Mississippi, no longer has any interest in the policies referenced in the Complaint and neither has nor will have any claim to the subject funds or against the Plaintiff.

2. Trustmark has affirmed, and this Court finds, that Trustmark in its capacity as Co-Executor of the Estate of James Oldrum Smith, Jr. is represented by separate counsel, and will file a separate answer and may claim an interest in the subject funds.

3. Accordingly, Trustmark, in its capacity as successor-in-interest to First National Bank of Vicksburg, Mississippi is hereby dismissed without prejudice, but Trustmark, in its capacity as Co-Executor of the Estate of James Oldrum Smith, Jr. is not dismissed from this action and remains a defendant and party-in-interest.

SO ORDERED, this the 21<sup>st</sup> day of December, 2007.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE

Agreed:

s/Roy H. Liddell  
Roy H. Liddell (MB # 1252)  
WELLS MARBLE & HURST, PLLC  
Post Office Box 131  
Jackson, Mississippi 39205-0131

**Attorney for Massachusetts Mutual  
Life Insurance Company**

s/William Trey Jones, III  
William Trey Jones, III  
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**Attorney for Trustmark National Bank in its  
Capacity as Successor-In-Interest to First  
National Bank of Vicksburg, Mississippi**